



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 27 1998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Nicholas Nedeau, Counsel
PDV Midwest Refining, L.L.C
750 Lexington Avenue
10th Floor
New York, New York 10022

Re: File No. AED/MSEB -4849
NOTICE OF VIOLATION OF THE CLEAN AIR ACT

Dear Mr. Nedeau:

On June 13, 1997, the U.S. Environmental Protection Agency ("EPA") inspected a Unocal branded retail outlet, Savers Auto Service, Inc. ("Savers"), located at 523 W. North Avenue, Villa Park, Illinois. The inspection was conducted to determine compliance with section 211(k) of the Clean Air Act ("Act"), 42 U.S.C. § 7545(k), and the regulations issued thereunder (40 C.F.R. part 80, subpart D). Where inappropriate fuels are used in internal combustion engines, the emissions of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission controls, emissions from motor vehicles continue to make up a very large portion of all air pollution. Congress has established a program of improvement and regulation of fuels to protect our air quality from unnecessary pollution associated with the misfueling of vehicles.

The applicable regulations provide that no person may manufacture and sell or distribute, offer for sale or distribution, dispense, supply, offer for supply, store, transport, or cause the transportation of any gasoline represented as reformulated and intended for sale or use in any covered area unless such gasoline meets the applicable standards specified in 40 C.F.R. § 80.41. This law also subjects violators to a maximum civil penalty of \$25,000 per day for each violation in addition to recovery of the amount of the economic benefit or savings resulting from the violation.

As a result of the inspection, EPA has determined that Savers, which is located in the VOC-Control Region 2 reformulated gasoline covered area, was selling gasoline in violation of 40 C.F.R. § 80.78(a)(1) in that it failed to meet the applicable Rvp standard specified in 40 C.F.R. § 80.41. The gasoline had a Rvp of 9.19 psi which violates the applicable standard of 8.3 psi. As the branded refiner whose corporate, trade, or brand name was displayed at the retail outlet where the violation was found, PDV Midwest/Unocal is liable for the violation of 40 C.F.R. § 80.78(a)(1) pursuant to 40 C.F.R. § 80.79(a)(2).

Sections 211 and 205 of the Act, 42 U.S.C. §§ 7545 and 7524, authorize the Administrator of EPA to assess a civil penalty of up to \$25,000 for every day of each violation and the economic benefit or savings resulting from the violation. In determining the appropriate penalty for the noticed violation, we consider the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of your business, your history of compliance with the Clean Air Act, actions taken by you to remedy the violation and to prevent recurrence of further violations, the effect of the penalty on your ability to continue in business and such other matters as justice may require.

We believe it is in your interest to demonstrate that remission or compromise of the penalty amount is appropriate. However, in order to assist us in developing the appropriate penalty and settlement positions, we have prepared the enclosed Request for Information. Under the law you are required to submit this information or be subject to additional penalties and other sanctions above and beyond those assessed for the fuel violation identified in this Notice. In addition, if you do not submit this information in a timely manner, we will be forced to make assumptions with regard to the factors to consider in determining the appropriate amount of civil penalty which may not be in your interest or whether remission or compromise of the civil penalty amount is appropriate.

We encourage early settlement of such matters. The settlement process provides substantial flexibility for reducing the proposed penalty, particularly if the alleged violation is corrected promptly. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

The EPA attorney designated below has been assigned to this case. All information should be sent to the case attorney. Please contact this attorney regarding the Notice of Violation and Request for Information.

Jocelyn L. Adair, Attorney
U.S. Environmental Protection Agency
Mobile Sources Enforcement Branch (2242-A)
Air Enforcement Division
401 M Street, S.W.
Washington, D.C. 20460
Phone number: (202) 564-1011

Please let me once again emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,



Bruce C. Buckheit, Director
Air Enforcement Division
Office of Enforcement and Compliance Assurance

Enclosure

cc: Ms. Vicky Simonian
UNOCAL
2929 E. Imperial Highway, Room 214
Brea, California 92821

Enclosure

REQUEST FOR INFORMATION PURSUANT TO SECTION 114 OF THE
CLEAN AIR ACT, 42 U.S.C. § 7414

Re: File No. AED/MSEB - 4849

Section 114(a) of the Act, 42 U.S.C. § 7414(a), provides that " the Administrator may require any person.... who is subject to any requirement of this Act ...to make such reports ... and provide such other information, as the Administrator may reasonably require." Respondent is subject to the requirements and prohibitions of the reformulated gasoline ("RFG") and anti-dumping requirements of section 211(k) of the Act, 42 U.S.C. § 7545(k) and thereby is also subject to the informational requirements of section 114(a) of the Act.

Pursuant to the authority contained in section 114 of the Act, 42 U.S.C. § 7414, provide the following information for PDV Midwest Refining, L.L.C., ("PDV") and its subsidiaries, parents, affiliates or related companies:

1. We are assuming that PDV's and its affiliates and subsidiaries income before expenses or deductions is over \$250 Million. If you do not agree, submit your financial statements for the prior three fiscal years and this year current to date including but not limited to balance sheets, profit and loss statements, statements of changes in position, and federal income tax returns.

2. Provide a comprehensive description of PDV and its affiliates and subsidiaries, including its business operations, corporate structure, officers, and board of directors.

3. Provide the name, address, telephone number, and other identification number of each gasoline distribution facility that is owned, leased, operated, controlled, or supervised by PDV, its affiliates or subsidiaries (i.e., each refinery, distribution terminal, and retail outlet).

a. Identify the type of gasoline that is distributed at the facility.

4. Identify each PDV brand name and provide the name, address, and other identification number of each retail outlet that displays a PDV brand name (e.g., Unocal).

5. Provide the name and address of each of PDV's jobbers, and carriers.

6. Provide a descriptive copy of PDV's jobber and carrier contracts, and provide the actual contract that PDV or its marketing subsidiaries had with Texor Petroleum Company to distribute gasoline to PDV's retail outlets and/or PDV's branded retail outlets.

7. For the period, May 1, 1997 through September 15, 1997, provide all Product Transfer Documents that accompanied each load of gasoline delivered to Savers Auto Service, Inc., a PDV/Unocal branded retail outlet located at 523 W. North Avenue, Villa Park, Illinois.

8. For the period, April 1, 1997 through September 15, 1997, provide evidence of any quality assurance program that PDV had in place to ensure compliance with the applicable standards for reformulated and/or conventional gasoline. Such evidence should include the following:

a. The date of and a complete narrative description of PDV's quality assurance program (including, its policies and procedures) to ensure compliance with the reformulated gasoline standards. The name and address of each person responsible for implementing the program and the duties performed by that person.

b. The name and address of each facility where gasoline was sampled and tested, the name and address of the person who sampled and tested the gasoline, a complete description of the gasoline sampled and tested, and copies of all test results.

c. Whether any violations were detected and corrective action taken as a result of PDV's quality assurance program.

9. Documents demonstrating what actions were taken to remedy the violation, including the disposition of non-complying gasoline, and to ensure that similar types of violations are less apt to occur in the future.

10. Any and all other information indicating that remission or compromise of the civil penalty is appropriate. You may elect to provide a statement of the cause of the violation, if known, and any mitigating factors you desire to bring to our attention.

The response to this request shall be full, complete, and to the best of your knowledge. A reply which is false, misleading, or made without regard to its veracity is, in our judgment, equivalent to a refusal to submit information. In order for us to proceed expeditiously with our enforcement docket, your response must be submitted within fifteen days after the date of this letter. If you encounter difficulty in responding to this request within this time frame, please contact the case attorney identified herein. Absent a written extension of the required response date, your failure to respond by the date set forth may lead to immediate enforcement action and a lost opportunity for early settlement of this matter. EPA's enforcement options include the issuance of a compliance order by the Administrator under section 113(a) of the Act, or the filing of a civil action seeking a permanent or temporary injunction, or a civil penalty of not more than \$25,000 per day of violation, or both, under section 113(b) of the Act. Please be aware that a knowing or willful submission of false, fictitious, or fraudulent statements or representations may subject you to possible criminal liability for filing false statements.

Pursuant to EPA regulations appearing at 40 C.F.R. Part 2, you are entitled to assert a confidentiality claim covering any part of the submitted information. If you do not assert such a claim, the submitted information may be available to the public without further notice. Information subject to a business confidentiality claim may be made available to the public only to the extent set forth in the above cited regulations.